

Remarks

The Examiner rejected claims 5–8. Claims 1–4 have been allowed. Claims 1–8 remain in the application.

Claims 5 and 7 have been amended to make it clear that the opposite sides of a module define the module's width. Support for the claims appears in FIGS. 2–5. The Examiner rejected claims 5 and 7 under 35 USC § 102(b) as being anticipated by Lapeyre (US 4,105,111) and claims 6 and 8 under 35 USC § 103(a) as being unpatentable over Lapeyre in view of applicant's disclosure. The amendments contain no new matter. The Examiner also made the action final on the grounds that "[a]pplicant's submission of the requirements for the joint research exclusion under 35 U.S.C. 103(c) on March 9, 2005 prompted the new ground(s) of rejection under 37 CFR 1.209(b) presented in the Office action." Because these grounds don't appear to apply to this application, applicant asks the Examiner to reconsider his holding of the office action as final. In any event, the claims are in *prima facie* allowable condition, and applicant requests their entry and allowance.

In his § 102(b) rejection, the Examiner marked up FIG. 5 of Lapeyre to show how he thinks it anticipates claims 5 and 7. In particular, the Examiner apparently analogized the central portions (10) of the sheet members of Lapeyre to applicant's narrow belt modules and analogized the length of the Lapeyre conveyor to the width of applicant's wide belt module. In his characterization of Lapeyre, the Examiner also noted the spot welds (41) in the Lapeyre sheet members.

But applicant maintains that the characterization and analogies do not apply. The spot weld (41) or adhesive in Lapeyre is between the central portions (10) of two sheets (22a and 22b in FIG.2) that form a two-layer link (col. 2, ll. 32–43), not between adjacent links. “The sheet members of each link are retained in contiguous overlapping layers by fastening means which can be of any convenient form.” (Lapeyre, col. 2, ll. 56–58, emphasis added) Stacking the two welded or glued layers makes a thicker, but not a longer or wider, link. The links are interleaved with other links to make a thicker and longer, but not a wider, conveyor. Furthermore, the interleaved links are not welded to each other into longer or wider links. If they were, they would not be able to pivot at the meeting points of the lobes (14, 16) to follow the laterally curved conveying path of FIG. 5. Lapeyre provides a channel member (43) or trough to prevent lateral disengagement of the sheet members (col. 2, l. 64 – col.3, l. 4). It is clear, moreover, from the curved demarcations between links in FIG. 5 that the welding in Lapeyre does not eliminate seams along the width or length of the conveyor. The conveyor has “discontinuities in the surface.” (Lapeyre, col. 3, ll. 16–18)

MPEP § 2131 provides: “A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.” *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). Lapeyre does not disclose, among other things, similar narrow modules welded side to side to form similar wider modules. Therefore, the § 102(b) rejection of claims 5 and 7 is unsupported by the art and should now be withdrawn.

The § 103(a) rejection, which is based on Lapeyre and applicant's disclosure, is also overcome because the references, singly or in combination, do not disclose all the elements of dependent claims 6 and 8. Therefore, the § 103(a) rejection should also be withdrawn.

Applicant respectfully requests: (1) reconsideration of the holding of final action; (2) entry of the amendments, whether by withdrawing of the decision to make final or because they put the claims in *prima facie* condition for allowance or in better form for appeal; (3) reconsideration of the rejection of claims 5-8; and (4) allowance of those claims in view of the remarks and amendments. This amendment is being submitted within two months of the final office action. No fee should be due. If, however, a fee is thought to be necessary for consideration of this response, authorization to charge it to Deposit Account No. 12-0090 is hereby given. If the Examiner thinks a telephone conference would expedite the prosecution of this application, he is invited to call the undersigned attorney.

Respectfully submitted,
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